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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

DAVID MELGREN, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

STORRS INSURANCE GROUP, INC.
D/B/A THE INSURANCE STORE,

Defendant.

Case No. 2:23-cv-00064-TOR

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

**NOTED FOR CONSIDERATION:
June 15, 2023**

**ORAL ARGUMENT NOT
REQUESTED**

I. PURPOSES AND LIMITATIONS

In answer to Paragraph 1 in the Complaint, TIS responds that the *Barr* case speaks for itself and there is no assertion of fact to which a further response is required.

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement

1 does not confer blanket protection on all disclosures or responses to discovery, the
2 protection it affords from public disclosure and use extends only to the limited
3 information or items that are entitled to confidential treatment under the applicable
4 legal principles, and it does not presumptively entitle parties to file confidential
5 information under seal.
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7 **II. CONFIDENTIAL MATERIAL**

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9 “Confidential” material shall include the following documents and tangible
10 things produced or otherwise exchanged: (i) customer information, (ii) defendant
11 financial information, and (iii) proprietary information relating to defendant’s sales
12 or marketing practices.
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14 **III. SCOPE**

15 The protections conferred by this agreement cover not only confidential
16 material (as defined above), but also (1) any information copied or extracted from
17 confidential material; (2) all copies, excerpts, summaries, or compilations of
18 confidential material; and (3) any testimony, conversations, or presentations by
19 parties or their counsel that might reveal confidential material. However, the
20 protections conferred by this agreement do not cover information that is in the public
21 domain or becomes part of the public domain through trial or otherwise.
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IV. ACCESS TO AND USE CONFIDENTIAL MATERIAL

4.1 Basic Principles: A receiving party may use confidential material that is disclosed or produced by another party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Confidential material may be disclosed only to the categories of persons and under the conditions described in this agreement. Confidential material must be stored and maintained by a receiving party at a location and in a secure manner that ensures that access is limited to the persons authorized under this agreement.

4.2 Disclosure of "CONFIDENTIAL" Information of Items: Unless otherwise ordered by the court or permitted in writing by the designating party, a receiving party may disclose any confidential material only to:

a. the receiving party's counsel of record in this action, as well as employees of counsel to whom it is reasonably necessary to disclose the information for this litigation;

b. the officers, directors, and employees (including in house counsel) of the receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties agree that a particular document or material produces is for Attorneys' Eyes Only and is so designated.

1 c. experts and consultants to whom disclosure is reasonably
2 necessary for this litigation and who have signed the “Acknowledgment and
3 Agreement to Be Bound” (Exhibit A);

4 d. the court, court personnel, and court reporters and their staff;

5 e. copy or imaging services retained by counsel to assist in the
6 duplication of confidential material, provided that counsel for the party retaining the
7 copy or imaging service instructs the service not to disclose any confidential material
8 to third parties and to immediately return all originals and copies of any confidential
9 material;

10 f. during their depositions, witnesses in the action to whom
11 disclosure is reasonably necessary and who have signed the “Acknowledgment and
12 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the designating
13 party or ordered by the court. Pages of transcribed deposition testimony or exhibits
14 to depositions that reveal confidential material must be separately bound by the court
15 reporter and may not be disclosed to anyone except as permitted under this
16 agreement;

17 g. the author or recipient of a document containing the information
18 or a custodian or other person who otherwise possessed or knew the information.

19 4.3 Filing Confidential Material: Before filing confidential material or
20 discussing or referencing such material in court filings, the filing party shall confer
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1 with the designating party to determine whether the designating party will remove
2 the confidential designation, whether the document can be redacted, or whether a
3 motion to seal or stipulation and proposed order is warranted. During the meet and
4 confer process, the designating party must identify the basis for sealing the specific
5 confidential information at issue, and the filing party shall include this basis in its
6 motion to seal, along with any objection to sealing the information at issue.
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8 **V. DESIGNATING PROTECTED MATERIAL**

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10 5.1. Exercise of Restraint and Care in Designating Material for Protection:
11 Each party or non-party that designates information or items for protection under
12 this agreement must take care to limit any such designation to specific material that
13 qualifies under the appropriate standards. The designating party must designate for
14 protection only those parts of material, documents, items, or oral or written
15 communications that qualify, so that other portions of the material, documents,
16 items, or communications for which protection is not warranted are not swept
17 unjustifiably within the ambit of this agreement. Mass, indiscriminate, or routinized
18 designations are prohibited. Designations that are shown to be clearly unjustified or
19 that have been made for an improper purpose (e.g., to unnecessarily encumber or
20 delay the case development process or to impose unnecessary expenses and burdens
21 on other parties) expose the designating party to sanctions. If it comes to a
22 designating party's attention that information or items that it designated for
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1 protection do not qualify for protection, the designating party must promptly notify
2 all other parties that it is withdrawing the mistaken designation.

3 5.2. Manner and Timing of Designations: Except as otherwise provided in
4 this agreement (see, e.g., second paragraph of section 5.2(b) below), or as otherwise
5 stipulated or ordered, disclosure or discovery material that qualifies for protection
6 under this agreement must be clearly so designated before or when the material is
7 disclosed or produced.
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10 a. Information in documentary form: (e.g., paper or electronic
11 documents and deposition exhibits, but excluding transcripts of depositions or other
12 pretrial or trial proceedings), the designating party must affix the word
13 “CONFIDENTIAL” to each page that contains confidential material. If only a
14 portion or portions of the material on a page qualifies for protection, the producing
15 party also must clearly identify the protected portion(s) (e.g., by making appropriate
16 markings in the margins).
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19 b. Testimony given in deposition or in other pretrial proceedings:
20 the parties and any participating non-parties must identify on the record, during the
21 deposition or other pretrial proceeding, all protected testimony, without prejudice to
22 their right to so designate other testimony after reviewing the transcript. Any party
23 or non-party may, within fifteen days after receiving the transcript of the deposition
24 or other pretrial proceeding, designate portions of the transcript, or exhibits thereto,
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1 as confidential. If a party or non-party desires to protect confidential information at
2 trial, the issue should be addressed during the pre-trial conference.

3 c. Other tangible items: the producing party must affix in a
4 prominent place on the exterior of the container or containers in which the
5 information or item is stored the word “CONFIDENTIAL.” If only a portion or
6 portions of the information or item warrant protection, the producing party, to the
7 extent practicable, shall identify the protected portion(s).
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10 5.3. Inadvertent Failures to Designate: If timely corrected, an inadvertent
11 failure to designate qualified information or items does not, standing alone, waive
12 the designating party’s right to secure protection under this agreement for such
13 material. Upon timely correction of a designation, the receiving party must make
14 reasonable efforts to ensure that the material is treated in accordance with the
15 provisions of this agreement.
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18 **VI. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

19 6.1. Timing of Challenges: Any party or non-party may challenge a
20 designation of confidentiality at any time. Unless a prompt challenge to a
21 designating party’s confidentiality designation is necessary to avoid foreseeable,
22 substantial unfairness, unnecessary economic burdens, or a significant disruption or
23 delay of the litigation, a party does not waive its right to challenge a confidentiality
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1 designation by electing not to mount a challenge promptly after the original
2 designation is disclosed.

3 6.2. Meet and Confer: The parties must make every attempt to resolve any
4 dispute regarding confidential designations without court involvement. Any motion
5 regarding confidential designations or for a protective order must include a
6 certification, in the motion or in a declaration or affidavit, that the movant has
7 engaged in a good faith meet and confer conference with other affected parties in an
8 effort to resolve the dispute without court action. The certification must list the date,
9 manner, and participants to the conference. A good faith effort to confer requires a
10 face to-face meeting or a telephone conference.
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12 6.3. Judicial Intervention: If the parties cannot resolve a challenge without
13 court intervention, the designating party may file and serve a motion to retain
14 confidentiality under Local Civil Rule 7 (and in compliance with Local Civil Rule
15 5(g), if applicable). The burden of persuasion in any such motion shall be on the
16 designating party. Frivolous challenges, and those made for an improper purpose
17 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
18 expose the challenging party to sanctions. All parties shall continue to maintain the
19 material in question as confidential until the court rules on the challenge.
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**VII. PROTECTED MATERIAL SUBPOENAED OR ORDERED
PRODUCED IN OTHER LITIGATION**

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party must:

- a) promptly notify the designating party in writing and include a copy of the subpoena or court order;
- b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and
- c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

VIII. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and

(d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

IX. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order or agreement that provides for production without prior privilege review. The parties agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

X. NON-TERMINATION AND RETURN OF DOCUMENTS

Within 60 days after the termination of this action, including all appeals, each receiving party must return all confidential material to the producing party, including all copies, extracts and summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction. Notwithstanding this provision, counsel are entitled to retain one archival copy of all documents filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain confidential material. The confidentiality obligations

1 imposed by this agreement shall remain in effect until a designating party agrees
2 otherwise in writing or a court orders otherwise.

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

4
5 Dated: May 3, 2023

s/Samuel J. Strauss
Samuel J. Strauss, WSBA No. 46971

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7 *Attorney for Plaintiff*

8 Dated: May 3, 2023

s/Anthony Todaro
Anthony Todaro, WSBA No. 30391

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10 *Attorney for Defendant*

PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

DATED: May 5, 2023.



A handwritten signature in blue ink that reads "Thomas O. Rice".

Hon. Thomas O. Rice
United States District Judge

EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of

_____ [print or type full address], declare
under penalty of perjury that I have read in its entirety and understand the Stipulated
Protective Order that was issued by the United States District Court for the Eastern
District of Washington on [date] in the case of _____. I agree to
comply with and to be bound by all the terms of this Stipulated Protective Order and
I understand and acknowledge that failure to so comply could expose me to sanctions
and punishment in the nature of contempt. I solemnly promise that I will not disclose
in any manner any information or item that is subject to this Stipulated Protective
Order to any person or entity except in strict compliance with the provisions of this
Order. I further agree to submit to the jurisdiction of the United States District Court
for the Eastern District of Washington for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action.

Date:

City and State:

Printed name:

Signature: